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**UNITED STATES DISTRICT COURT
NORTHER DISTRICT OF CALIFORNIA**

GREGORY CHAMBERS,

Plaintiff,

vs.

PABCO, LLC,

Defendant.

No. C07-03119 MHP

**DECLARATION OF STEPHEN
THOMAS DAVENPORT, JR. IN
SUPPORT OF DEFENDANT'S
MOTION FOR DISMISSAL**

**Date: April 21, 2008
Time: 2:00 p.m.
Courtroom: 15**

I, Stephen Thomas Davenport, Jr. declare under penalty of perjury as follows:

1. I am an attorney licensed to practice law before all of the Courts of the State of California and am admitted to practice before the United States District Court for the Northern District of California. I am a partner in the law firm of Davenport Gerstner & McClure, attorneys of record in the instant action for Defendant Pabco Building Products, LLC.

2. At the initial Status Conference on October 22, 2007, which I attended, the parties jointly asked Judge Patel to refer this case to a Magistrate Judge for a Settlement Conference. Although the Court questioned whether a summary judgment motion might better serve Defendant given the many potential defenses which were available to Defendant, I explained that I believed

1 that a Settlement Conference could address these issues in a more cost effective manner for
2 Defendant and that given my excellent relationship with Plaintiff, I believed that a settlement
3 could be achieved with the Magistrate Judge's assistance. As a result, the Court ordered that the
4 case be referred to a Settlement Conference with a Magistrate Judge. Simultaneously, this Court
5 scheduled a further Status Conference for January 14, 2008 at 3:00 p.m.

6 3. On October 29, 2007, Magistrate Judge Bernard Zimmerman issued an Order
7 scheduling the Settlement Conference for December 21, 2007. However, due to a conflict with
8 my calendar, the parties stipulated, and Judge Zimmerman ordered, that the Settlement Conference
9 be continued until January 9, 2008 at 2:00 p.m. in his Courtroom.

10 4. On January 2, 2008, Defendant filed a lengthy and detailed Settlement Conference
11 Statement which addressed the potential defenses available to Defendant, as well as the other
12 matters requested by Magistrate Judge Zimmerman. I spent five hours preparing the Settlement
13 Conference Statement.

14 5. Although I had planned to attend the Settlement Conference, my mother died on
15 January 8, 2008, and as a result my partner, Neil M. Gerstner, attended the Settlement Conference
16 in my place.

17 6. On January 10, 2008, when I learned that Plaintiff Gregory Chambers had not
18 attended the Settlement Conference, I telephoned Mr. Chambers' home and cell phone numbers to
19 find out why he had not appeared. Mr. Chambers did not answer my calls so I left voice mail
20 messages asking him to call me back to discuss his non-appearance. He has never returned my
21 calls.

22 7. On January 14, 2008, I attended the Supplementary Status Conference in this case
23 which had been scheduled for that day at 3:00 p.m. in Judge Patel's Courtroom. Mr. Chambers
24 did not appear at the Status Conference. Nor did he notify me or the Court that he would not be
25 appearing. I spent three hours traveling to and from, and attending, the Status Conference.

26 I declare under penalty of perjury that I have read the foregoing statement, that its contents
27 are true and correct, except as to those matters which are stated upon information and belief,

1 which I believe to be true and correct, and that this Declaration was executed at Walnut Creek,
2 California on March 18, 2008.

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5 STEPHEN THOMAS DAVENPORT, JR.
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